

N. KEITH CHAMBERS  
EXECUTIVE DIRECTOR

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

<b>IN THE MATTER OF:</b>	)	
	)	
<b>MELANIE M. MOLLOY,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>and</b>	)	<b>Charge Nos.: 2005CS1660</b>
	)	<b>2005CS1661</b>
	)	<b>EEOC No.: N/A</b>
	)	<b>ALS No.: 06-173</b>
<b>DAN DECKER and</b>	)	
<b>THE SCREENWRITERS GROUP,</b>	)	
	)	
<b>Respondents.</b>	)	<b>Judge Lester G. Bovia, Jr.</b>

**RECOMMENDED ORDER AND DECISION**

This matter has come to be heard on Respondents' Motion to Dismiss ("Motion"). Complainant filed a response to the Motion, and Respondents filed a reply. In addition, the Illinois Department of Human Rights ("Department") has been served with all briefs and given an opportunity to respond to the Motion. Accordingly, this matter is now ready for disposition.

**FINDINGS OF FACT**

The following facts were derived from uncontested sections of the pleadings, affidavits, and other documents submitted by the parties. The findings did not require, and were not the result of, credibility determinations. Moreover, all evidence was viewed in the light most favorable to Complainant.

1. Respondent Dan Decker is the President of Respondent The Screenwriters Group ("TSG"). Mr. Decker began teaching screenwriting workshops in 1991, and incorporated TSG in Illinois in 1994.
2. During all relevant time periods, Complainant was a student in some of TSG's screenwriting workshops.
3. TSG never has offered degrees or been affiliated with any entity that offers degrees.

4. TSG's course offerings never have been limited to students who have completed a primary school and/or secondary school level of education.
5. TSG never has mandated any prerequisites for participating in its workshops, and its workshops can be taken in any sequence.
6. TSG never has been accredited by any public or private entity.
7. TSG never has issued grades to its students or for any work prepared by them.
8. TSG never has offered college credits for its workshops.
9. On December 6, 2004, Complainant filed charges with the Department against Respondents alleging that Mr. Decker sexually harassed her in or about August 2004. Respondents deny Complainant's allegations.

#### CONCLUSIONS OF LAW

1. TSG is not an "institution of higher education" as that phrase is defined in the Illinois Human Rights Act ("Act"), 775 ILCS 5/5A-101(A).
2. The Commission has no jurisdiction over this matter.
3. Respondents are entitled to a recommended order of dismissal as a matter of law.

#### DISCUSSION

The Commission is empowered to preside over only those matters prescribed by the Act. Davies and Sequin Servs., Inc., IHRC, ALS No. 8977, April 17, 1997. Cases alleging civil rights violations at institutions of higher education fall within the purview of the Act. See 775 ILCS 5/5A-102. Complainant asserts that TSG is an institution of higher education under the Act. Accordingly, Complainant asserts, her sexual harassment allegations stemming from her tenure as a TSG student are properly before the Commission. Respondents disagree.

The Act defines an institution of higher education as "any publicly or privately operated university, college, community college, junior college, business or vocational school, or other educational institution offering degrees and instruction beyond the secondary school level." 775 ILCS 5/5A-101(A). Respondents have offered affidavits from Mr. Decker in support of their

Motion. In the affidavits, Mr. Decker asserts that TSG never has offered degrees or been affiliated with any entity that offers degrees. (D. Decker's affidavit at 1.) TSG's course offerings never have been limited to students who have completed a primary school and/or secondary school level of education. (Id. at 2.) TSG never has mandated any prerequisites for participating in its workshops, and its workshops can be taken in any sequence. (Id.) TSG never has been accredited by any public or private entity. (Id.) TSG never has issued grades to its students or for any work prepared by them. (Id.) TSG never has offered college credits for its workshops. (D. Decker's supplemental affidavit at 1.)

Unambiguous statutory language, in the Act or elsewhere, must be given its plain and ordinary meaning. Carter Coal Co. v. Human Rights Comm'n, 261 Ill. App. 3d 1, 6, 633 N.E.2d 202, 206 (5th Dist. 1994). Per the Act's plain language, to qualify as an institution of higher education, the alleged school at issue (*i.e.*, a "university, college, community college, junior college, business or vocational school, or other educational institution") must offer: 1) degrees beyond the secondary school level; and 2) instruction beyond the secondary school level. Respondents' proffered affidavits describe an enterprise that clearly does not fall within the purview of the Act. According to Respondents' affidavits, TSG never has issued grades or college credits, let alone degrees, for any of its screenwriting workshops. Respondents' affidavits also make it clear that students can enroll in TSG's workshops whether they have attended secondary school or not, and conceivably could enroll in TSG's workshops with a primary school education or less.

Complainant has offered no affidavits to rebut Respondents'. Where the movant's affidavits stand uncontroverted, the facts contained therein must be accepted as true and, therefore, a complainant's failure to file counter-affidavits in response is frequently fatal to her case. Rotzoll v. Overhead Door Corp., 289 Ill. App. 3d 410, 418, 681 N.E.2d 156, 161 (4th Dist. 1997). Moreover, as the Commission has noted:

We will not search the record to find reasons to deny a motion. If a motion appears valid on its face, and if the other side cannot tell us why the motion should not be granted, we will grant the motion.

Jones and Burlington N. R.R., IHRC, ALS No. 1704, June 23, 1986.

In sum, TSG is not an institution of higher education under the Act. Therefore, the Commission lacks jurisdiction over this matter.

#### RECOMMENDATION

Based on the foregoing, the Commission lacks jurisdiction over this matter, and Respondents are entitled to a recommended order of dismissal as a matter of law. Accordingly, it is recommended that: 1) Respondents' Motion to Dismiss be granted; and 2) the complaint and underlying charges against both Respondents be dismissed in their entirety with prejudice.

#### **HUMAN RIGHTS COMMISSION**

BY: \_\_\_\_\_

**LESTER G. BOVIA, JR.  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION**

ENTERED: December 3, 2009